

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4201
OFFERED BY MR. TAUZIN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Noncommercial Broad-
3 casting Freedom of Expression Act of 2000”.

4 SEC. 2. FINDINGS.

5 The Congress finds the following:

6 (1) In the additional guidance contained in the
7 Federal Communication Commission’s memorandum
8 opinion and order in WQED Pittsburgh (FCC 99–
9 393), adopted December 15, 1999, and released De-
10 cember 29, 1999, the Commission attempted to im-
11 pose content-based programming requirements on
12 noncommercial educational television broadcasters
13 without the benefit of notice and comment in a rule-
14 making proceeding.

15 (2) In doing so, the Commission did not ade-
16 quately consider the implications of its proposed
17 guidelines on the rights of such broadcasters under
18 First Amendment and the Religious Freedom Res-
19 toration Act.

1 (3) Noncommercial educational broadcasters
2 should be responsible for using the station to pri-
3 marily serve an educational, instructional, cultural,
4 or religious purpose in its community of license, and
5 for making judgments about the types of program-
6 ming that serve those purposes.

7 (4) Religious programming contributes to serv-
8 ing the educational and cultural needs of the public,
9 and should be treated by the Commission on a par
10 with other educational and cultural programming.

11 (5) Because noncommercial broadcasters are
12 not permitted to sell air time, they should not be re-
13 quired to provide free air time to commercial entities
14 or political candidates.

15 (6) The Commission should not engage in regu-
16 lating the content of speech broadcast by non-
17 commercial educational stations.

18 **SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NON-**
19 **COMMERCIAL EDUCATIONAL OR PUBLIC**
20 **BROADCAST STATIONS.**

21 (a) SERVICE CONDITIONS.—Section 309 of the Com-
22 munications Act of 1934 (47 U.S.C. 309) is amended by
23 adding at the end the following new subsection:

24 “(m) SERVICE CONDITIONS ON NONCOMMERCIAL
25 EDUCATIONAL AND PUBLIC BROADCAST STATIONS.—

1 “(1) IN GENERAL.—A nonprofit organization
2 shall be eligible to hold a noncommercial educational
3 radio or television license if the station is used pri-
4 marily to broadcast material that the organization
5 determines serves an educational, instructional, cul-
6 tural, or religious purpose (or any combination of
7 such purposes) in the station’s community of license,
8 unless that determination is arbitrary or unreason-
9 able.

10 “(2) ADDITIONAL CONTENT-BASED REQUIRE-
11 MENTS PROHIBITED.—The Commission shall not—

12 “(A) impose or enforce any quantitative re-
13 quirement on noncommercial educational radio
14 or television licenses based on the number of
15 hours of programming that serve educational,
16 instructional, cultural, or religious purposes; or

17 “(B) impose or enforce any other require-
18 ment on the content of the programming broad-
19 cast by a licensee, permittee, or applicant for a
20 noncommercial educational radio or television li-
21 cense that is not imposed and enforced on a li-
22 censee, permittee, or applicant for a commercial
23 radio or television license, respectively.

24 “(3) RULES OF CONSTRUCTION.—Nothing in
25 this subsection shall be construed as affecting—

1 “(A) any obligation of noncommercial edu-
2 cational television broadcast stations under the
3 Children’s Television Act of 1990 (47 U.S.C.
4 303a, 303b); or
5 “(B) the requirements of section 399,
6 399A, and 399B of this Act.”.

7 (b) **POLITICAL BROADCASTING EXEMPTION.**—Sec-
8 tion 312(a)(7) of the Communications Act of 1934 (47
9 U.S.C. 312(a)(7)) is amended by inserting “, other than
10 a noncommercial educational broadcast station,” after
11 “use of a broadcasting station”.

12 (c) **IMPLEMENTATION.**—Consistent with the require-
13 ments of section 4 of this Act, the Federal Communica-
14 tions Commission shall amend sections 73.1930 through
15 73.1944 of its rules (47 C.F.R. 73.1930-73.1944) to pro-
16 vide that those sections do not apply to noncommercial
17 educational broadcast stations.

18 **SEC. 4. RULEMAKING.**

19 (a) **LIMITATION.**—After the date of enactment of this
20 Act, the Federal Communications Commission shall not
21 establish, expand, or otherwise modify requirements relat-
22 ing to the service obligations of noncommercial educational
23 radio or television stations except by means of agency rule-
24 making conducted in accordance with chapter 5 of title

1 5, United States Code, and other applicable law (including
2 the amendments made by section 3).

3 (b) RULEMAKING DEADLINE.—The Federal Commu-
4 nications Commission shall prescribe such revisions to its
5 regulations as may be necessary to comply with the
6 amendment made by section 3 within 270 days after the
7 date of enactment of this Act.